

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09..01..2008

Coram

The Honourable Mr.Justice P.K. MISRA
and
The Honourable Mr.Justice K.CHANDRU

W.P. Nos. 3541 and 3555 of 2001
and

W.M.P. Nos. 4917 and 4918 of 2001 in W.P. No. 3541 of 2001 and W.M.P.
Nos.4934 and 4935 of 2001 in W.P. No. 3555 of 2001

V. Lakshmanamoorthy ... Petitioner in W.P. No. 3541 of 2001
G. Panneerselvam ... Petitioner in W.P. No. 3555 of 2001

-vs-

1. Union of India
Rep. by General Manager
Telecom, Salem
2. The Senior Superintendent of Posts
Salem East Division, Salem
3. The Sub-Divisional Officer
Telegraphs, Attur
4. The Registrar
Central Administrative Tribunal
Madras Bench Respondents

Petition under Article 226 of the Constitution of India praying to
issue a writ of Certiorari calling for the records of the 4th respondent
Tribunal in O.A. Nos. 1181 and 1179 of 1999 and quash the order dated
17.11.2000.

For Petitioner : Mr. K.M. Ramesh
For Respondents : Mr. S. Rajasekar, SCGSC

COMMON ORDER

(Order of the Court was made by K.CHANDRU, J.)

Heard the arguments of Mr. K.M. Ramesh, learned counsel appearing
for the petitioner and Mr. S. Rajasekar, learned Senior Central
Government Standing Counsel representing the respondents and have
perused the records.

2. The petitioners in W.P. Nos. 3541 and 3555 of 2001 were the applicants before the Central Administrative Tribunal [for short, '[CAT'] in O.A. Nos. 1181 and 1179 of 1999 respectively. These two petitioners along with several other persons filed Original Applications before the CAT seeking to set aside the orders of the respondent including the order dated 29.10.1999 wherein and by which the petitioner in W.P. No. 3541 of 2001 was posted at Kudamalai and the petitioner in W.P. No. 3555 of 2001 was posted at Paithur. The CAT held that their posting was done only as a deputation and they cannot seek for absorption in the Department where they worked. The CAT also held that an employee on deputation is always liable to be repatriated to the parent Department and there is no vested right of absorption in the other Department. The CAT also rejected the plea put forward by the petitioners that they had legitimate expectation of getting absorbed in the Department where their services were sent on deputation. The CAT, after relying upon the judgment of the Supreme Court in Kunal Nanda v. Union of India [2000 (5) SCC 362], held that a deputationist cannot assert and succeed any claim for absorption of the post in which he was sent on deputation. Since their services were repatriated to parent Department, viz., Postal Department, and by way of a supplementary affidavit, the Department asked for some time for absorption and six months time was granted to absorb all the ED messengers including the petitioners. Aggrieved by the same, the present writ petitions have been preferred.

3. At the time of admission of the writ petitions, this Court refused to grant any interim order and merely held that they are joining in their parent Department without prejudice to the claim for absorption in the Department in which they were sent on deputation. It is seen from the records that consequent upon the opening of District Telegraph Office at Attur, the three ED agent posts were abolished resulting in the two petitioners along with one other person becoming surplus and they could not be accommodated in the postal Department and since they were want of ED Posts at that time, they were deputed to work at Telegraph Wing as per the request. But subsequently, it was intimated that it was not possible to absorb the messengers in the Telegraph Department. Therefore, they were requested to inform the date of relieving. It is also seen that they were directed to give willingness to continue in the Telegraph Department in the existing condition and on the basis of their willingness, they have continued but subsequently, when it was informed in the year 1998 that their services were no longer required at the Attur Branch Post Office and there is no likelihood of their regular absorption in the Telegraph Department, they were asked to be repatriated pursuant to which the order impugned before the Tribunal came to be passed.

4. We find that there is no order absorbing the petitioner in permanent capacity in the Telegraph Department and their continuance in the Department was only as a stop gap arrangement. We also find that the CAT had passed the correct order in not acceding to the request of the petitioners and after enunciating the correct position of law, had rejected the request of the petitioners. We do not find any infirmity or illegality in the order passed by the CAT.

5. In view of the above, the writ petitions fail and accordingly, stand dismissed. However, there will be no order as to costs. Connected Miscellaneous Petitions are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. General Manager
Union of India
Telecom, Salem
2. The Senior Superintendent of Posts
Salem East Division, Salem
3. The Sub-Divisional Officer
Telegraphs, Attur
4. The Registrar
Central Administrative Tribunal
Madras Bench

2 cc To Mr.S.Rajasekar, SCGSC, SR.1428, 1429.
2 cc To Mr.K.M.Ramesh, Advocate, SR.1046, 1045.

W.P. Nos. 3541 and 3555 of 2001

CMP(CO)
RVL 12.03.2008